

### **REMARKS**

Claims 32, 40, 57, 64, 80, 88, 105 and 112 have been cancelled without prejudice or disclaimer. Applicants reserve the right to pursue these claims in one or more divisional applications.

Claim 38 has been amended so as to end with a period. Claims 48, 72, 96 and 120 have been amended so as to recite “detecting binding of said antibody or fragment thereof to the TR9 protein.” Support for these amendments may be found in the specification as originally filed, for example, at page 6, lines 30-31; at page 15, lines 3-17; and at page 98, line 4 through page 99, line 34. Claims 73 and 98 have been amended so as to recite “amino acid residues from about 156 to about 311;” “amino acid residues from about 323 to about 348;” “amino acid residues from about 376 to about 412;” “amino acid residues from about 433 to about 474;” “amino acid residues from about 485 to about 599;” and “amino acid residues from about 611 to about 628.” Support for these amendments may be found in the specification as originally filed, for example, at page 8, lines 1-12. Accordingly, no new matter has been added.

Claims 25-31, 33-39, 41-56, 58-63, 65-79, 81-87, 89-104, 106-111 and 113-120 are pending in this application upon entry of the present amendment. No new matter has been added.

### **I Claim Objections**

The Examiner has objected to claim 38 as “there is no period at the end of the sentence.” *See*, Paper No. 05102004, at page 2. Applicants respectfully point out that claim 38 has been amended so as to end with a period. Accordingly the Examiner’s objection has been obviated, and should be reconsidered and withdrawn.

The Examiner has also objected to claims 32, 57, 80 and 105 as allegedly “being of improper dependent form for failing to further limit the subject matter of a previous claim.” *See*, Paper No. 05102004, at pages 2-3. More specifically the Examiner alleges that claims 32, 57, 80 and 105 “encompass the same antibodies as independent claims 25, 50, 73 and 98, and therefore do not further limit the parent claims.” *Id.* Applicants respectfully point out that claims 32, 57, 80 and 105 have been cancelled without prejudice or disclaimer, thereby obviating this objection. Accordingly, Applicants respectfully request that the present objection to claims 32, 57, 80 and 105 be reconsidered and withdrawn.

## **II Rejection Under 35 U.S.C. § 112, second paragraph**

The Examiner has rejected claims 48, 49 and 72-120 under 35 U.S.C. § 112, second paragraph as allegedly “being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.” *See*, Paper No. 05102004, at page 3.

More specifically the Examiner alleges that claims 48, 49, 72, 96, 97 and 120 are “incomplete method claims.” *Id.* Applicants respectfully point out that claims 48, 72, 96 and 120, and claims dependent therefrom, have been amended so as to recite “detecting binding of said antibody or fragment thereof to the TR9 protein,” thereby obviating the Examiner’s rejection. Accordingly, the instant rejection of claims 48, 49, 72, 96, 97 and 120 under 35 U.S.C. §112, second paragraph, should be reconsidered and withdrawn.

The Examiner also rejects claims 73-120 as independent claims 73 and 98 allegedly “encompass antibodies to a protein consisting of the specific amino acid residues (for example, amino acids 116-271) of the amino acid sequence encoded by the cDNA contained in ATCC Deposit Number 209037, and it is not clear if those amino acid

sequences correspond to the same amino acid sequences of SEQ ID NO:2.” *See*, Paper No. 05102004, at pages 3-4. Applicants respectfully point out that claims 73 and 98, and claims dependent therefrom, have been amended so as to recite “amino acid residues from about 156 to about 311 ... about 323 to about 348 ... about 376 to about 412 ... about 433 to about 474 ... about 485 to about 599 ... about 611 to about 628.” thereby obviating the Examiner’s rejection. Accordingly, the instant rejection of claims 73-120 under 35 U.S.C. §112, second paragraph, should be reconsidered and withdrawn.

### **III Rejection Under 35 U.S.C. § 112, first paragraph**

The Examiner has rejected claims 40, 64, 88 and 112 under 35 U.S.C. § 112, first paragraph as allegedly containing “subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.” *See*, Paper No. 05102004, at pages 4-5. More specifically the Examiner alleges:

[t]he claims encompass an antibody or fragment thereof which is conjugated to a therapeutic or cytotoxic agent, which implies a therapeutic or cytotoxic use ... there is no example in the specification or disclosure of why one of ordinary skill in the art would wish to target cells expressing the TR9 receptor with a therapeutic or cytotoxic agent.

*Id.* Applicants respectfully disagree and traverse the rejection and assert that each claim pending before and after entry of the instant amendment meets the statutory requirements of 35 U.S.C. § 112, first paragraph.

Applicants respectfully point out that claims 40, 64, 88 and 112 have been cancelled without prejudice or disclaimer thereby obviating the Examiner’s rejection. Accordingly, the instant rejection of claims 40, 64, 88 and 112 under 35 U.S.C. §112, first paragraph, should be reconsidered and withdrawn.


**Conclusion**

In view of the foregoing remarks, applicants believe that this application is now in condition for allowance. The Examiner is invited to call the undersigned at the phone number provided below if any further action by applicant would expedite the examination of this application.

Finally, if there are any fees due in connection with the filing of this paper, please charge the fees to our Deposit Account No. 08-3425. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

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